THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 28-11-2005

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WRIT PETITION Nos.25424 and 25432 of 2005

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WP.No.25424 of 2005

Between:

Toddy Tappers Cooperative Society, Domakonda. . . .Petitioner

And

The Proh. & Excise Superintendent, Nizamabad,

and another . . .Respondents

WP.No.25432 of 2005

Between:

Toddy Tappers Cooperative Society, Domakonda. . . .Petitioner

And

The Proh. & Excise Superintendent, Nizamabad,

and another . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION Nos.25424 and 25432 of 2005

COMMON ORDER:

The petitioner is a Toddy Tappers Cooperative Society at Domakonda. It has established a depot and shops for sale of toddy within its jurisdiction. The local Excise Officials are said to have conducted inspection on the depot as well as shop No.1 and after making a preliminary chemical analysis, they suspected

that the toddy was mixed with Chloral Hydrate. Thereupon, the first respondent suspended licences of the depot as well as shops. The petitioner challenges the said proceedings.

Sri Amarnath Goud Thodupunuri, learned counsel for the petitioner, submits that whatever may be the justification for the first respondent to suspend the licences of the depot and the shop, which was inspected, there was no basis for him to suspend the licences of other shops. He has placed reliance upon the judgments of this Court, which are to the effect that the violation in respect of depot or some of the shops cannot constitute basis for cancellation of licences of other shops.

Learned Government Pleader for Prohibition and Excise, on the other hand, submits that the suspension pending enquiry stands on a different footing from the one relating to cancellation of licence. She contends that when a licence can be suspended without stating any reason, the fact that the adulteration of toddy in the depot or shop held by the licencee cannot render the suspension of licences of other shops illegal. She also contends that the petitioner had an effective alternative remedy by way of appeal.

The proceedings initiated against the petitioner are at a preliminary stage. The licences were suspended pending enquiry. It is true that the order of suspension discloses that the inspection was conducted and the samples were drawn only from the depot and shop No.1. The question as to whether the suspension of licences of other shops is warranted in the facts and circumstances, can effectively be examined by the appellate authority. When there exists any alternative remedy by way of appeal, this Court does not intend to exercise its jurisdiction under Article 226 of the Constitution of India.

For the foregoing reasons, the writ petitions are disposed of, leaving it open to the petitioner to prefer an appeal before the appellate authority. Having regard to the fact that the entire business of the petitioner is brought to a standstill and the livelihood of several members is involved, the appellate authority shall dispose of the appeal, within a period of two weeks from the date of presentation of the same. There shall be no order as to costs.

(L.NARASIMHA REDDY, J)

30th NOVEMBER, 2005.

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